

NATIONAL RECOVERY ADMINISTRATION

PROPOSED CODE OF FAIR COMPETITION
FOR THE
PICTURE PUBLISHERS AND
IMPORTERS INDUSTRY

AS SUBMITTED ON AUGUST 30, 1933



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DOCUMENTS DEPT.

U.S. DEPOSITORY

The Code for the Picture Publishers and Importers Industry in its present form merely reflects the proposal of the above-mentioned industry, and *none of the provisions contained therein are to be regarded as having received the approval of the National Recovery Administration as applying to this industry*

UNITED STATES
GOVERNMENT PRINTING OFFICE
WASHINGTON : 1933

SUBMITTED BY
PICTURE PUBLISHERS AND IMPORTERS ASSOCIATION
(II)



**THE FOLLOWING IS THE CODE OF FAIR COMPETITION
UNDER THE NATIONAL INDUSTRIAL RECOVERY ACT
(NIRA) ADOPTED BY THE PICTURE PUBLISHERS AND
IMPORTERS ASSOCIATION**

ARTICLE I

a. This code is set up to effectuate the purposes of the "NIRA" for Picture Publishers and Picture Importers. It has to do with unfair competition practices and administration machinery for enforcing the code.

b. This association is truly representative of the entire business of publishing and importing pictures.

c. This code does not promote a monopoly.

d. This code does not oppress nor discriminate against any small enterprise.

e. The code provides that the employer will comply with maximum hours, minimum rates of pay, and other conditions of employment approved by the President of the United States.

ARTICLE II

Each firm or individual in this group, as distinctive from every other group, trade, or industry, includes all those who publish or represent publishers, and import or represent importers, or are engaged in the publication or importation of "Pictures for resale."

The expression "Pictures for Resale" among publishers and importers has always been understood to mean pictures in the form of the pictorial and of the graphic arts for resale through art dealers as distinguished from pictures in any form gratuitously distributed.

ARTICLE III

LABOR

Publishers and Importers of pictures are primarily organizations supplying employment and support—

First. To originating artists

Second. To others as follows:

The individual character of a work of art necessitates the use of many methods, each differing from the other to obtain the most faithful results.

This group provides business and employment of labor in many diversified plants and to artisans all entirely apart and beyond the control of this group.

ARTICLE IV

P-1. ADMINISTRATION

A. The Executive Committee consists of the Board of Directors and the Officers.

The Officers shall be The President, Vice President, Secretary, Treasurer.

The Secretary-Treasurer may be one and the same.

The Board of Directors shall consist of three members.

B. Officers and directors shall be elected by a majority vote and by ballot of those who shall attend a meeting called for this purpose.

Notice of such meeting shall be sent by mail to the last known address to all those mentioned in Article II.

Each firm and/or an individual engaged in business of his own shall be entitled to only one vote at all meetings.

C. An election of permanent officers shall be held after the code has been approved by the Government.

P-2. POWERS OF ADMINISTRATION

A. To administer the provisions of this code.

B. To adopt Rules and Regulations for the enforcement thereof.

C. To entertain and hear complaints arising out of any violation of this code or the NIRA., and, where such complaint cannot be disposed of otherwise, to cause such complaint to be arbitrated as hereinafter provided. Charges must be submitted to the Executive Committee in writing and all evidence must be in writing.

D. To initiate proceedings before the appropriate governmental agencies to prevent and/or punish violations of this code.

E. In order that the President of the United States may be informed with respect to the observance or nonobservance of this code by those to whom the same is applicable and whether they are complying with the policy and provisions of the National Industrial Recovery Act:

The Executive Committee and/or its agents shall have access to all places of business maintained by any firm or individual to whom this code is applicable and examine and determine the methods of cost accounting, selling, invoicing, and general business practices pertaining to any complaint, and may take such steps as it may deem advisable to effect such changes in methods and practices as shall place the business of any such firm or individual upon a fair competitive basis.

It is anticipated in all cases requiring investigation that the executive committee shall appoint as its agent or agents any person or persons entirely outside of this group, or those who are not directly competitors of the firm or individual.

F. *The Executive Committee has power.*—(a) To establish rules and regulations for the disposal of distress merchandise in such a manner as not to disturb the stability of the picture market.

(b) To consign such noncompetitive items as in the judgment of the Executive Committee will cause no possible disturbance to the stability of the picture market.

ARTICLE V

FAIR TRADE PRACTICES

A. *Consignments*.—There has developed a growing evil commonly known as Delivery of pictures on consignment or memorandum to retailers, distributors and others. This was accomplished by any of the following methods:

1. By billing on consignment or on memorandum.
2. By agreement to take merchandise back that remained unsold.
3. By agreement that merchandise unsold after a given time may be changed for other merchandise.
4. By agreement that merchandise unpaid for within a given time may be retained or returned.
5. By making the distributor or dealer or retailer an agent of the Publisher or Importer in the sale of merchandise.
6. And by various other agreements designed to weaken or modify the usual terms upon which an order for the producing and sale of merchandise is given.

The foregoing practices result in unfair competition and are therefore prohibited.

B. *Sample Shipments*.—Submission of samples of not more than one copy of a subject may be made with the understanding that such samples are to be returned within seven days after receipt of same, but on condition that such samples will not be offered for sale at retail. All bills covering such samples must bear a notice to this effect.

Noncompliance with aforementioned clause results in unfair competition and is therefore prohibited.

C. *Prices*.—It is necessary that prices once established must be upheld, and that by establishing prices a certain minimum price level must be observed. The publication of pictures as well as importation of same is a highly speculative business and unavoidable failures must be covered by the profitable or successful publications:

It is considered that the minimum basis for lowest net selling prices should be as follows:

Minimum Prices.—1. Prints published in the U.S. 200% above cost price to retailers, 100% above cost price to recognized jobbers.

2. Prints imported into the U.S. 100% above cost price to retailers, 50% above cost price to recognized jobbers.

3. Etchings published in the U.S. 200% above cost price to retailers, 100% above cost price to recognized jobbers.

4. Etchings imported into the U.S. 100% above cost price to retailers, 50% above cost price to recognized jobbers.

The term "cost price" among publishers and importers has always been understood for imported merchandise, cost of merchandise including duty, freight, and packing. For merchandise produced in the U.S., the cost of original, royalty, the cost of plates, paper, printing, and coloring.

The sale of merchandise below the above-stipulated minimum selling prices results in unfair competition and is therefore prohibited.

D. *Jobber*.—The recognized jobber in accepting discounts agrees not to pass all or any part of these discounts on to the dealer.

Jobbers who pass any part of their discount to the dealer are to be reported to the Executive Committee and if they do not stop such practice they shall forfeit the right to receive jobber's discounts from every member of this group.

Noncompliance with the order to refuse jobbers' discounts to such firms or individuals results in unfair competition and is therefore prohibited.

E. Discounts, Transportation, etc.—1. All sales are to be made under the maximum terms: Payment 2% 10 days EOM, 30 days net.

2. Shipments F.O.B. such city in which seller is located, or F.O.B. point of shipment.

3. It is forbidden to give pictures gratuitously or to indulge in such practices as allowing "seven for six" or "thirteen for twelve", etc.

4. It is forbidden to accept payment of an account of an amount lower than the amount shown on the bill.

5. No fall dating is to be granted later than October 1st, to be payable strictly net not later than October 31st. No fall dating is to be allowed for shipments made prior to July 1st. There is to be no discounting or allowance for anticipation for payments made before the net due date.

Noncompliance with any of the foregoing conditions results in unfair competition and is therefore prohibited.

F. Allowances for Advertising.—Allowances for advertising or payment for space in newspapers, magazines, guides, directories, programs, or catalogs to be used in promoting the sale of merchandise is prohibited.

The supplying of cuts, matrices, electrotypes, window cards, or other display pieces shall, however, not be included in such prohibition.

G. Misrepresentation.—There has been a growing practice of using the innocence and inexperience of many dealers and a great part of the public as a help to sell inferior merchandise representing same as original works of art. Such practices were put in effect by various ways and means as:

1. By giving reproductions names of processes which sound like original hand-printed processes.

2. By calling mechanical prints "etchings", etc.

Such practices are bound to upset the confidence of the buying public and must disturb the picture market.

The Publisher and/or Importer and/or their representatives must offer their merchandise under the true and commonly known process of reproduction.

Misrepresentation of merchandise results in unfair competition and is therefore prohibited.

H. Piracy.—The imitation of a publication to such an extent that it can easily be recognized as an imitation shall be considered as piracy and an unfair business practice which is prohibited.

ARTICLE VI

COPYRIGHT

The Proprietor of a copyright shall be entitled to the exclusive right to copy or reproduce the whole or any essential part of

copyright work and also the right to restrain any simulation or imitation of subject and appearance of such work, and this shall apply not only to the person, firm, or corporation producing or publishing such simulation or imitation, but also to any person who shall produce, or offer for sale, or sell, or exhibit, or publish any such simulation or imitation.

ARTICLE VII

ARBITRATION

Any and all complaints, differences, controversies, or questions arising under or out of this code or concerning the interpretation or appreciation of any provision thereof, shall be submitted to arbitration in accordance with the rules of the American Arbitration Association.



